

# FIRST UNION RAIL

One O'Hare Centre  
6250 River Road, Suite 5000  
Rosemont, IL 60018

Tel 847.318.7575  
Fax 847.318.7588  
www.firstunionrail.com



VIA UPS 2<sup>nd</sup> DAY AIR

October 12, 2007

Mr. Vernon Williams  
Surface Transportation Board  
395 E Street, S.W., Suite 100  
Washington, DC 20024  
Attn: Recordation of Railroad Equipment

RECORDATION NO. 27207 FILED

OCT 16 '07 -4 33 PM

SURFACE TRANSPORTATION BOARD

Re: Memorandum of Lease Agreement

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) originals and one (1) copy of a Memorandum of Lease Agreement, dated August 23, 2007, a primary document as defined in the Board's Rules for the Recordation of Documents. Please file this Memorandum of Lease as a primary document since a Master Lease has not been filed with the Surface Transportation Board. The names and addresses of the parties to the enclosed document are:

Lessor: First Union Rail Corporation  
One O'Hare Centre  
6250 River Road, Suite 5000  
Rosemont, IL 60018

Lessee: Mohawk Materials Co., Inc.  
2571 Charles Page Blvd.  
Tulsa, OK 74127

A description of the railroad equipment covered by the enclosed document is six (6) 4750 cu. ft. capacity covered hopper cars with FURX marks (see Exhibit A for car numbers).

A short summary of the document to appear in the index follows: Memorandum of Lease

Also enclosed is a check in the amount of \$35.00 payable to the order of the Surface Transportation Board covering the required recordation fee. Kindly return one (1) stamped original of the enclosed document to the undersigned along with the additional copies.

If you have any questions regarding the above-referenced matter, please contact me at (847) 384-5397. Thank you for your cooperation in this matter.

Very truly yours,

Marcia Dunne  
Rail Documentation Specialist

Enclosures  
(MOMA001)

## MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE (the "Memorandum") is made and entered into as of this the 23<sup>rd</sup> day of August, 2007, by and between First Union Rail Corporation ("Lessor"), a North Carolina corporation, and Mohawk Materials Co., Inc. ("Lessee"), an Oklahoma corporation.

## WITNESSETH:

The undersigned Lessor and Lessee have entered into that certain Lease Agreement (the "Lease"), dated as of August 23, 2007, whereby Lessor has agreed to lease to Lessee certain railcars pursuant to Rider No. 1 to the Lease (the "Rider"), as described in more particular on Exhibit A attached hereto, effective as of August 23, 2007, and subject to the terms, conditions and provisions of the above-mentioned Lease and Rider.

IN WITNESS WHEREOF, the parties hereto have each caused this Memorandum to be duly executed under seal by their respective officers duly authorized as of the date and year first above written.

LESSOR:

FIRST UNION RAIL CORPORATION

ATTEST:

By:

Name:

VICE PRESIDENT SALES &amp; MARKETING

By:

Name:

Title:

ASST. DIRECTOR OF DOCUMENTATION Executed on this 23<sup>rd</sup> day of August, 2007.RECORDATION NO. 27207 FILED

[CORPORATE SEAL]

OCT 16 '07 -4 3 3 PM

STATE OF

COUNTY OF

SURFACE TRANSPORTATION BOARD

I, GEORGIA FREIBURGER, a Notary Public of the County and State aforesaid, certify that RICHARD F. SEYMOUR personally appeared before me this day and acknowledged his/her due execution of the foregoing Memorandum of Lease.

WITNESS my hand and official stamp or seal, this 23<sup>rd</sup> day of August, 2007.

Notary Public

My Commission Expires:

5-2008  
(Notary Public)



LESSEE:

MOHAWK MATERIALS CO., INC.

ATTEST:

By:

Name:

Title:

Scott A. Waller  
Scott A. Waller  
President

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Executed on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

[CORPORATE SEAL]

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

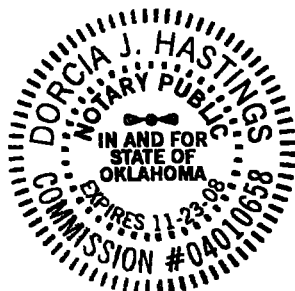
I, \_\_\_\_\_, a Notary Public of the County and State aforesaid, certify that \_\_\_\_\_ personally appeared before me this day and acknowledged his/her due execution of the foregoing Memorandum of Lease.

WITNESS my hand and official stamp or seal, this 14 day of Aug, 2007.

Commission Expires:

11-23-08

(Notary Public)



Dorcia J. Hastings  
Notary Public

**EXHIBIT A**  
**to**  
**MEMORANDUM OF LEASE**

**NUMBER OF CARS:**           Six (6)

**DESCRIPTION OF CARS:**   4750 cu. ft. capacity covered hopper cars with 268,000 GRL

**CAR NUMBERS:**

FURX 824233 .

FURX 825955

FURX 828731

FURX 829519

FURX 829531

FURX 833323

Count: 6